





Rejection of claims 1-5, 8-11 and 14-22 under 35 U.S.C. §101

The examiner rejected claims 1-5, 8-11 and 14-22 under 35 U.S.C. §101 as being directed to nonstatutory subject matter. All of the independent claims have been amended herein to recite not allowing a sum of all the minimum resource specifications for all of the plurality of logical partitions to exceed a total of resources that are permanently enabled. In the examiner's rejection of claims 3, 9 and 18, the examiner states:

Since the sum of all specifications never changes, it remains as it is, making the produced result remains [sic] in the abstract and, thus, fails to achieve the required status of having real world value.

The examiner's statement that the sum of all specifications never changes is incorrect. The minimum resource specification may change, as shown comparing FIGS. 7 and 8. Because the minimum resource specification may change as resources are added or deleted from a computer system, the claims clearly recite statutory subject matter under 35 U.S.C. §101, and applicants respectfully request reconsideration of the examiner's rejection of these claims under 35 U.S.C. §101.

Claims 14 and 19 have been amended herein to recite a computer readable program product, and to replace the term "computer readable signal bearing media" with the term "recordable media", thus limiting these claims to tangible, computer readable embodiments, which is an article of manufacture. See *In re Beauregard*, 53 F3d 1583, 35 USPQ2d 1383 (Fed. Cir. 1995). Applicants respectfully submit that claims 14-24 recite statutory subject matter under 35 U.S.C. §101.

Rejection of claims 1-2, 4-8, 10-17 and 19-24 under obviousness-type double patenting

The examiner rejected claims 1-2, 4-8, 10-17 and 19-24 under obviousness-type double patenting based on co-pending patent application serial no. 10/616,676. This cited

patent application has the same filing date as the subject patent application. As a result, there is no issue under obviousness-type double patenting because both of these patents, if and when issued, will have the same term, namely 20 years from the date of filing. As a result, no terminal disclaimer is required, and applicants respectfully request reconsideration of the examiner's rejection of claims 1-2, 4-8, 10-17 and 19-24.

Rejection of claims 1-24 under 35 U.S.C. §103(a)

The examiner rejected claims 1-24 under 35 U.S.C. §103(a) as being unpatentable over Camble in view of Circenis. Each of the independent claims have been amended herein to recite the limitation of not allowing a sum of all the minimum resource specifications for all of the plurality of logical partitions to exceed a total of resources that are permanently enabled. Note that the term "base resources" is defined in the specification at p. 8 lines 9-12, which states:

The term "base resources" as used herein refers to the resources that are permanently enabled on apparatus 100, and includes all resources that are enabled when the computer system is acquired, and includes all additional resources that are subsequently permanently enabled.

The amendments to the claims herein use the term "resources that are permanently enabled" in the place of the term "base resources" in the claims as filed for clarification. In the rejection, the examiner mapped the total amount of resources the user is allowed to use in Camble as specified in the license key. The license key in Camble indicates total capacity, which includes temporary resources, and thus expressly teaches away from resources that are permanently enabled as recited in the pending claims.

The examiner has provided no mapping of the prior art on the limitation "specified resource-time" in the claims. In addition, the examiner has provided no mapping of the prior art on the limitation "minimum resource specification" in the

